

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7896 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SIDDIQUE KSAM SANGHI

Versus

STATE OF GUJARAT

Appearance:

MR ZUBIN F BHARDA for Petitioner

Mr U A Trivedi, APP for Respondent No. 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 26/11/96

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 26.4.1996 passed by the District Magistrate, Rajkot. It appears from the grounds of detention that two cases have been registered against the petitioner under the provisions of Bombay Prohibition Act, 1948. The second case has been registered in January 1996. Third case has been registered against the petitioner for offences punishable under sections 323 and 504 of the Indian Penal

Code and under sections 135 and 37(1) of the Bombay Police Act. No reply to the petition has been filed. However, learned APP has opposed the petition. Keeping in view the law laid down by the Apex Court in the case of Piyush Kantilal Mehta v. Police Commissioner, Ahmedabad, reported in AIR 1989 SC 491, it cannot be said that the activities of the petitioner as a bootlegger has affected adversely or likely to affect adversely the maintenance of public order. Merely because some stray cases under the IPC or under the Bombay Police Act have been registered against the petitioner cannot be a valid ground for detention. Thus in my view, the impugned order of detention is ex-facie illegal and it deserves to be quashed and set aside.

2. In view of the above, this Special Civil Application is allowed. The order of detention dated 26.4.1996 is quashed and set aside and the detenu shall be set at liberty forthwith, if not required in any other case. Rule made absolute accordingly.

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